House File 2384

H-8198

Amend House File 2384 as follows:

1. Page 1, before line 1 by inserting:

<DIVISION I

PHARMACY BENEFITS MANAGERS AND PRESCRIPTION DRUG BENEFITS>

2. Page 2, line 3, by striking <acquisition> and inserting <invoice>

3. Page 2, line 4, by striking <acquisition> and inserting <invoice>

4. Page 2, line 11, by striking <acquisition> and inserting <invoice>

5. Page 2, by striking lines 21 and 22.

6. Page 2, after line 29 by inserting:

<___. *"Pharmacy invoice cost"* means the cost to a pharmacy for a prescription drug as invoiced by a wholesale distributor.>

7. Page 3, by striking lines 22 and 23 and inserting:

<3. A pharmacy benefits manager shall act in the best interest of each health carrier for whom the pharmacy benefits>

8. Page 3, by striking lines 27 through 31.

9. Page 5, line 18, by striking <maximum allowable cost for>

10. Page 5, line 19, by striking <that drug at> and inserting <total amount that>

11. Page 5, line 20, after <order> by inserting <is reimbursed>

12. Page 5, line 32, after <the> by inserting <pharmacies participating in the>

13. Page 5, line 32, by striking <plan> and inserting <plan's network>

14. Page 5, line 33, by striking <A> and inserting <Excluding incentives in value-based programs established by a health carrier or a pharmacy benefits manager to promote the use of higher quality pharmacies, a>

15. Page 6, by striking lines 6 through 25 and inserting:

<7. For purposes of calculating a covered person's contribution toward the covered person's cost-sharing, a

pharmacy benefits manager shall include all cost-sharing paid by the covered person and all cost-sharing paid by any other person on behalf of the covered person. If, however, this requirement will result in health savings account ineligibility under section 223 of the Internal Revenue Code, this requirement shall only apply to the covered person's deductible for a health savings account qualified-high deductible health plan after the covered person has satisfied the minimum deductible under section 223 of the Internal Revenue Code, except for items or services that are preventive care, in which case, the requirement shall apply regardless of if the minimum deductible under section 223 of the Internal Revenue Code has been satisfied. For purposes of this section, "*preventive care*" means the same as under section 223(c)(2)(C) of the Internal Revenue Code.>

16. Page 7, line 15, by striking <acquisition> and inserting <invoice>

17. By striking page 7, line 25, through page 8, line 1.

18. Page 8, by striking lines 15 and 16 and inserting <directly or indirectly except in the following circumstances:>

19. Page 8, before line 17 by inserting:

<a. The claim is found not to be a clean claim during the course of a routine audit.

b. The claim submission was fraudulent.

c. The claim submission was a duplicate submission of a claim for which the pharmacy had already received payment.>

20. Page 8, line 19, by striking <cost,> and inserting <cost or reimbursement rate>

21. Page 8, by striking line 20.

22. Page 8, line 24, after <cost> by inserting <or the reimbursement rate>

23. Page 8, line 25, by striking <acquisition> and inserting <invoice>

24. Page 8, line 33, by striking <seven> and inserting <thirty>

25. Page 9, line 7, after <cost> by inserting <or the reimbursement rate>

26. Page 9, line 11, by striking <rebill> and inserting <resubmit>

27. Page 9, by striking lines 13 through 15 and inserting:

<(3) Make the adjustment pursuant to subparagraph (1) applicable to all of the following:

(a) Each pharmacy that is under common ownership with the pharmacy that submitted the appeal.

(b) Each pharmacy in the state that demonstrates the inability to purchase the prescription drug for less than the established maximum allowable cost or reimbursement rate.>

28. Page 9, line 22, after <cost> by inserting <or reimbursement rate>

29. Page 9, line 26, by striking <acquisition> and inserting <invoice>

30. Page 9, line 29, by striking <list> and inserting <or the reimbursement rate>

31. Page 9, line 30, by striking <acquisition> and inserting <invoice>

32. Page 9, line 30, by striking <rebill> and inserting <resubmit>

33. Page 9, line 33, after <cost> by inserting <or the reimbursement rate>

34. Page 10, line 12, by striking <shall> and inserting <may>

35. Page 10, by striking lines 22 through 27 and inserting:

<3. A pharmacy benefits manager shall be subject to the commissioner's authority to conduct an examination pursuant to chapter 507.>

36. Page 11, line 19, by striking <shall> and inserting <may>

37. Page 11, line 29, before <This> by inserting <1.>

38. Page 11, line 29, after <This> by inserting <division of this Act>

39. Page 11, after line 32 by inserting:

<2. The following applies to all health benefit plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2023:

The section of this division of this Act amending section 510B.8, subsection 7.>

40. Page 11, before line 33 by inserting:

<DIVISION ___

PHARMACIES AND COVERED ENTITIES —— 340B DRUG PROGRAM

Sec. ___. NEW SECTION. **510D.1 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. *"340B program"* means the program created pursuant to the Veterans Health Care Act of 1992, Pub. L. No. 102-585, section 602, and codified as section 340B of the federal Public Health Services Act.

2. *"Contract pharmacy"* means a pharmacy that has executed a contract with a covered entity to dispense covered outpatient drugs, purchased by the covered entity through the 340B program, to eligible patients of the covered entity.

3. *"Covered entity"* means the same as defined in 42 U.S.C. §256b(a)(4).

4. *"Group health plan"* means the same as defined in section 513B.2.

5. *"Medicaid managed care organization"* means an entity that is under contract with the Iowa department of human services to provide services to Medicaid recipients and that also meets the definition of *"health maintenance organization"* in section 514B.1.

6. *"Pharmacy benefits manager"* means the same as defined in section 510B.1.

7. *"Similarly situated entity or pharmacy"* means an entity or pharmacy that is of a generally comparable size, and that operates in a market with similar demographic characteristics, including population size, density, distribution, and vital

statistics, and reasonably similar economic and geographic conditions.

8. *"Third-party administrator"* means the same as defined in section 510.11.

Sec. ___. NEW SECTION. **510D.2 340B drug program — contract pharmacies and covered entities.**

1. Group health plans, health insurance issuers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers shall not discriminate against a covered entity or a contract pharmacy by reimbursing the covered entity or the contract pharmacy for a prescription drug or for a dispensing fee in an amount less than the group health plan, health insurance issuer, third-party administrator, or pharmacy benefits manager reimburses a similarly situated entity or pharmacy that is not a covered entity or a contract pharmacy.

2. *a.* Group health plans, health insurance issuers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers shall not, solely on the basis that an entity is a covered entity or that a pharmacy is a contract pharmacy, or that a covered entity or contract pharmacy participates in the 340B program, impose any of the following contractual terms and conditions on the covered entity or the contract pharmacy that differ from those imposed on a similarly situated entity or pharmacy that is not a covered entity or a contract pharmacy:

(1) Fees, chargebacks, clawbacks, adjustments, or other assessments that are not required by state law or the Iowa administrative code.

(2) Professional dispensing fees that are not required by state law or the Iowa administrative code.

(3) Restrictions or requirements related to participation in standard or preferred pharmacy networks.

(4) Requirements related to the frequency or scope of audits.

(5) Requirements related to inventory management systems that utilize generally accepted accounting principles.

(6) Requirements related to mandatory disclosure either directly or through a third party, except disclosures required by federal law, of prescription orders that are filled with covered outpatient drugs obtained through the 340B program.

b. Paragraph *"a"*, subparagraph (1), shall not be construed to prohibit adjustments for overpayments or other errors associated with an adjudicated claim.

c. Paragraph *"a"*, subparagraph (6), shall not be construed to prohibit modifiers or identifiers to prevent duplication of rebates.

3. Group health plans, health insurance issuers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers shall not do any of the following:

a. Place any restrictions or impose any requirements on an individual that chooses to obtain a covered outpatient drug from a covered entity or a contract pharmacy, whether in person, via courier or the United States post office, or any other form of delivery.

b. Refuse to contract with a covered entity or a contract pharmacy based on any criteria that is not applied equally to contract with a similarly situated entity or pharmacy that does not participate in the 340B drug program.

c. Impose any restriction or condition, as identified by the commissioner by rule, on a covered entity that interferes with the covered entity's ability to maximize the value of the discounts obtained by the covered entity through the covered entity's participation in the 340B drug program.

Sec. ___. NEW SECTION. **510D.3 Penalties.**

The commissioner of insurance shall impose a civil penalty, not to exceed five thousand dollars per violation per day, on any entity that violates this chapter.

Sec. ___. NEW SECTION. **510D.4 Rules.**

The commissioner of insurance may adopt rules as necessary to implement the chapter.

Sec. ___. NEW SECTION. **510D.5 Applicability.**

1. This chapter shall apply to covered entities, contract pharmacies, group health plans, health insurance issuers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers, regardless of whether the covered entity or contract pharmacy is eligible to retain the discounts generated by the covered entity's or contract pharmacy's participation in the 340B program.

2. This chapter shall not apply to any of the following:

a. Covered entities, contract pharmacies, group health plans, health insurance issuers that offer group or individual health insurance coverage, third-party administrators, and pharmacy benefits managers when acting pursuant to a contract with any of the following:

(1) A Medicaid managed care organization.

(2) The Iowa department of human services to provide services to medical assistance program recipients pursuant to chapter 249A.

b. The medical assistance program under chapter 249A.

Sec. ___. NEW SECTION. **510D.6 Inconsistencies and conflicts.**

1. To the extent that any provision of this chapter is inconsistent or conflicts with an applicable federal law, rule, or regulation, such federal law, rule, or regulation shall prevail to the extent necessary to eliminate the inconsistency or conflict.

2. To the extent that any provision of this chapter is inconsistent or conflicts with the state's medical assistance state plan, the state's medical assistance state plan shall prevail to the extent necessary to eliminate the inconsistency or conflict.>

41. Title page, line 1, after <pharmacies,> by striking

<and>

42. Title page, line 2, after <benefits,> by inserting <and contract pharmacies and covered entities that participate in the 340B drug program,>

43. By renumbering, redesignating, and correcting internal references as necessary.

BEST of Carroll